

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

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69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM
Rio Gallina, Section 5

**JOINT STATUS REPORT ON THE ADJUDICATION OF WATER RIGHTS
IN THE RIO GALLINA SECTION OF THE RIO CHAMA STREAM SYSTEM**

The State of New Mexico, *ex rel.*, State Engineer (“State”), the United States of America, and the Section 5 Acequias, by and through their attorneys, submit the following joint status report on the progress of the adjudication of the Rio Gallina Section of the Rio Chama Stream System, pursuant to the Order entered by the Special Master on January 12, 2001 (Docket No. 6108).

1. The State has received signed and approved consent orders in approximately sixty six (66) subfiles, most of which have been filed with the Court. On or about February 14, 2001, the State filed a Motion for Default Judgement in three (3) subfiles. Thirty two (32) other subfiles remain open.

2. Approximately twenty (20) of the remaining open subfiles involve objections and answers filed by defendants to the terms of the State’s proposed consent orders. Additional field work will be necessary to evaluate these claims in most cases. In six (6) of these disputed subfiles, any required field work is largely complete, and the State believes that the Special Master should schedule a conference to discuss preparations for a hearing with the defendants in these six subfiles.

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Additional subfiles may be identified by the State that should be added to this group after the State is able to complete further field work beginning in April 2001, and after subsequent discussions and meetings with defendants in an attempt to resolve existing disputes.

3. The subfiles identified by the State at this time for which a hearing may be necessary are:

CHGA-02-0006A	Henry L. Jacquez
CHGA-02-0027A	Luis Toby Velasquez, Genevieve M. Velasquez
CHGA-02-0027B	Gabriel Maestas, Mary Ann Maestas
CHGA-02-0042	Marino Jacquez
CHGA-03-0007	Juan C. Chavez, Patsy L. Chavez, Jose P. Chavez, Piedad Chavez
CHGA-04-0001A	Julian Vigil, Mary Vigil, Robert M. Vigil

The State requests that the Court set a date to hear the claims of these defendants no sooner than August 2001. This will allow the State time to perform additional field work in some cases, and time to enlarge the historic aerial photography used in the Rio Gallina hydrographic survey for more convenient use in any hearing. This will also allow experts retained by the Gallina-Capulin Acequia Association to complete reports which may be relevant to the subfiles set for hearing.

4. In about twelve (12) other open subfiles the State is continuing work to resolve ownership and boundary problems, or the State is working with defendants to make revisions to the terms of proposed consent orders.

5. In addition to answers filed by defendants objecting to the terms of the State's proposed consent orders, forty two (42) "Statement of Water Rights Claim" forms have been filed with the Court. Many of these claims duplicate claims raised in existing subfiles and answers. About 1/3 appear to involve claims for irrigated acreage by defendants not joined to the adjudication, or represent claims filed by defendants joined to the adjudication who claim irrigation water rights

for land not included in the Rio Gallina hydrographic survey. Field work on these claims will commence in the Spring as soon as practicable.

6. The State completed its field investigation on the United States' federal Non-Indian claims in October of 2000 as required, and on October 16, 2001, provided a report to the United States concerning the State's disagreement with numerous factual aspects of the United States' stock watering and wildlife watering claims. The United States has not revised the factual aspects of its claims in response to the October 16, 2000, report, and the Court has vacated the February 1, 2001, deadline for the United States to file amended claims (Docket No. 6313). There has been ongoing discussion among counsel for the State involved in several different stream system adjudications concerning the United States' claims in connection with stock watering. The supervising attorneys for the Rio Grande and Pecos adjudications have been attempting to advance the resolution of this issue to establish a consistent position to follow in the adjudication of water rights throughout New Mexico. Counsel for the State, the United States and the Gallina Acequias suggest that this matter, and a common or joint mechanism for the State to address these claims, be discussed at the Status Conference scheduled for February 22, 2001.

7. The Gallina Capulin Acequia Association has a commitment from Malcom Ebright to perform historical studies for the association pending contract approval at a meeting of the ditch commissioners. A hydrologist has also been retained to perform water availability and irrigation water requirement studies.

8. Counsel propose that no further scheduling order be entered or proposed until after the Status Conference scheduled for February 22, 2001.

DATED: February 19, 2001

Respectfully submitted,

Ed Newville

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Approved:

telephonically approved 2/19/01

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CERTIFICATE OF SERVICE

I certify that the foregoing Joint Status Report on the Adjudication of Water Rights in the Rio Gallina Section of the Rio Chama Stream System was mailed to the following persons on February 14, 2000.

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